



House of Representatives

File No. 763

General Assembly

January Session, 2003

(Reprint of File No. 597)

Substitute House Bill No. 6546
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 23, 2003

AN ACT CONCERNING THIRD-PARTY LIABILITY FOR CONTAMINATED PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) No owner of real
2 property shall be liable for any costs or damages pursuant to any
3 provision of the general statutes or common law to any person other
4 than this state, any other state or the federal government, with respect
5 to any pollution or source of pollution on or emanating from such
6 owner's real property that occurred or existed prior to such owner
7 taking title to such property, provided:

8 (1) The owner did not establish or create a condition or facility at or
9 on such property that reasonably can be expected to create a source of
10 pollution to the waters of the state for purposes of section 22a-432 of
11 the general statutes and such owner is not responsible pursuant to any
12 other provision of the general statutes for creating any pollution or
13 source of pollution on such property;

14 (2) The owner is not affiliated with any person responsible for such

15 pollution or source of pollution through any direct or indirect familial
16 relationship, or any contractual, corporate or financial relationship
17 other than that by which such owner's interest in the property was
18 conveyed or financed; and

19 (3) The Commissioner of Environmental Protection has approved in
20 writing: (A) An investigation report of the pollution and sources of
21 pollution on or emanating from the real property which pollution or
22 sources of pollution occurred prior to such owner's taking title to such
23 property, conducted in accordance with the prevailing standards and
24 guidelines which investigation was conducted by an environmental
25 professional licensed in accordance with section 22a-133v of the
26 general statutes; and (B) a final remedial action report prepared by a
27 licensed environmental professional that demonstrates that
28 remediation of such pollution and sources of pollution was completed
29 in accordance with the remediation standards in regulations adopted
30 pursuant to section 22a-133k of the general statutes. Prior to the
31 initiation of an investigation or a remediation undertaken to meet the
32 criteria of this section, an owner of the subject real property shall
33 notify, by certified mail, the owners of the adjoining properties of such
34 initiation. Such reports shall be forwarded, by certified mail, to the
35 owners of the adjoining properties.

36 (b) This section shall not relieve any such liability where (1) an
37 owner failed to file or comply with the provisions of an environmental
38 land use restriction created pursuant to section 22a-133o of the general
39 statutes for such real property or with the conditions of a variance for
40 the real property that was approved by the commissioner in
41 accordance with regulations adopted pursuant to section 22a-133k of
42 the general statutes, or (2) the commissioner, at any time, determines
43 that an owner provided information that it knew or had reason to
44 know was false or misleading or otherwise failed to satisfy all of the
45 requirements of subsection (a) of this section. Nothing in this section
46 shall be construed to relieve an owner of any liability for pollution or
47 sources of pollution on or emanating from such property that occurred
48 or were created after the owner took title to such property.

49 (c) If an owner of real property is found to be liable under this
50 section because the owner is affiliated with the person responsible for
51 the pollution or source of pollution, as provided in subdivision (2) of
52 subsection (a) of this section, such owner shall be liable for a civil
53 penalty in an amount not less than one hundred thousand dollars nor
54 more than the cost of remediating the pollution or source of pollution.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Significant Revenue Gain

Municipal Impact: None

Explanation

The bill exempts under certain conditions, property owners from liability, except to a state or the federal government, for costs or damages resulting from pollution that occurred before the owner took title to the property. The limit on liability is not anticipated to result in increased costs to the state.

The bill establishes a civil penalty of at least \$100,000 that may be recovered by the state if certain conditions are met. A potential significant revenue gain to the General Fund could result.

House "A" requires property owners to notify adjoining property owners and has no fiscal impact.

OLR Bill Analysis

sHB 6546 (as amended by House "A")*

**AN ACT CONCERNING THIRD-PARTY LIABILITY FOR
CONTAMINATED PROPERTY****SUMMARY:**

This bill relieves a property owner of liability, except to a state or the federal government, for costs or damages resulting from pollution that occurred before he took title to the property if (1) he did not cause, or create a condition that could reasonably be expected to cause, the pollution; (2) he is not affiliated, through family or business relationships, with the person responsible for the pollution; and (3) the Department of Environmental Protection commissioner approves certain reports concerning the pollution. It exempts from the provision on business relationships the relationship by which the owner's interest in the property was conveyed or financed. It imposes a civil penalty of between \$100,000 and the cost of remediating the contaminated property on an owner found to be otherwise affiliated with the person responsible for the pollution. The property owner must notify adjoining property owners before investigating his property for pollution or remediating the property.

An owner is not relieved of liability if (1) he failed to comply with the terms of an environmental land use restriction or the conditions of a variance for the property that the commissioner approved; (2) the commissioner determines that he provided information he knew, or should have known, was false or misleading, or otherwise failed to comply with the bill; or (3) the pollution occurred after he took title to the property.

*House Amendment "A" requires a property owner to notify adjoining property owners before conducting an investigation or remediation of his property.

EFFECTIVE DATE: October 1, 2003

RELIEF FROM LIABILITY

The bill relieves a property owner of liability for costs or damages under state or common law, except to any state or the federal government, resulting from pollution that occurred or existed before he took title, if:

1. the owner did not create a condition or facility at or on the property that could reasonably be expected to create a source of pollution to state waters or cause any pollution or source of pollution under the law;
2. the owner is neither related to a person responsible for any pollution or pollution source on the property, nor has any contractual, corporate or financial relationship with such person other than that by which the owner's interest in the property was conveyed or financed; and
3. the environmental protection commissioner has given written approval to both (a) an investigation report of pollution and pollution sources on the site that existed or took place before the property owner took title, conducted by a licensed environmental professional according to prevailing standards and guidelines, and (b) the licensed environmental professional's final remedial action report, demonstrating that remediation was completed according to law.

NOTIFICATION OF ADJOINING PROPERTY OWNERS

The bill requires a property owner to send to adjoining property owners, by certified mail, (1) notice that he is going to begin an investigation or remediation of his property and (2) the investigation and final remedial action reports.

COMMITTEE ACTION

Environment Committee

Favorable Substitute Change of Reference

Yea 25 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 0